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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re JUAN G., a Person
Coming Under the Juvenile
Court Law.

B292260

(Los Angeles County
Super. Ct. No. CK86058C)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

CERVANDO G.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of
Los Angeles County, Anthony A. Trendacosta, Judge. Dismissed.

Robert McLaughlin, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel and Stephen D. Watson, Deputy
County Counsel, for Plaintiff and Respondent.

The juvenile court sustained an amended dependency petition pursuant to Welfare and Institutions Code section 300, subdivision (j),¹ alleging Juan G.'s half sister L.Z. was sexually abused by a member of the children's household, which placed Juan at risk of harm. The court declared Juan a dependent of the court and ordered him released to his parents, Cervando G. and Dorisbeth Z. On appeal Cervando argues only that the court's finding Juan was at substantial risk of abuse or neglect was not supported by substantial evidence. He acknowledges the court's assumption of dependency jurisdiction was based on Dorisbeth's conduct, as well as his own, and concedes he cannot contest the court's findings as to Dorisbeth. Cervando has not challenged any aspect of the court's disposition orders. Because we cannot grant Cervando any effective relief, we dismiss the appeal.

FACTUAL AND PROCEDURAL BACKGROUND

1. The Proceedings Related to Juan's Half Sisters

Dorisbeth is the mother of three children—Juan, now three years old, Litzy Z., now seven years old, and L.Z., now 11 years old. Each child has a different father. In 2015, prior to Juan's birth, the Los Angeles County Department of Children and Family Services (Department) filed a dependency petition under section 300 alleging Dorisbeth had physically abused and

¹ Statutory references are to this code.

inappropriately disciplined her daughters. The petition was sustained, and L.Z. and Litzy were removed from their mother's custody and placed in foster care.

During 2016, while the dependency case was pending, L.Z. reported to several individuals that she had been sexually abused when she lived with her mother. L.Z. told her foster mother, the Department social worker, an investigating police officer and a forensic examiner she had been touched underneath her clothes by a man. She was inconsistent in identifying the abuser, stating at various times it had been Cervando, an uncle or uncles, an uncle's friend, an older man and a younger man, someone who lived with or regularly visited her maternal grandmother or her "dad," although it was never established to whom L.Z. was referring when she said the abuser was her "dad." The Los Angeles County Sheriff's detective assigned to investigate L.Z.'s allegations closed the case for insufficient evidence due to L.Z.'s inconsistent statements, inability to articulate the details of the alleged abuse and failure to identify the abuser. In a 2017 report the Department acknowledged the inconsistencies in L.Z.'s account of the abuse but stated the "allegation for sexual abuse [by] a 'John Doe' was substantiated."

In May 2017 the juvenile court returned L.Z. and Litzy to Dorisbeth's home and ordered that the girls were to have no contact with their stepfather, Cervando. Approximately three weeks after the girls had been returned to their mother, the Department learned Cervando was living in the home in violation of the no-contact order. When the Department social worker visited the home and interviewed L.Z., the child recanted the sexual abuse allegations in their entirety. She said she had not been inappropriately touched by anyone and explained she had

made the accusation in response to her former foster mother's questions about why she wet the bed. The Department removed L.Z., Litzy and Juan from the home based on Dorisbeth's violation of the no-contact order.

2. The Petition and First Amended Petition

On June 21, 2017 the Department filed a section 300 petition as to Juan, which contained two counts under section 300, subdivision (a), repeating the 2015 allegations that Dorisbeth had physically abused and inappropriately disciplined L.Z. and Litzy and alleging that conduct placed Juan at substantial risk of serious physical injury. The allegations also stated Cervando knew or reasonably should have known of the past abuse and failed to protect the children. The petition also contained two section 300, subdivision (b)(1), counts, which repeated the physical abuse allegations and alleged a third count under subdivision (b)(1) stating Dorisbeth had allowed Cervando to have access to L.Z. and Litzy despite the no-contact order, which placed Juan at a substantial risk of serious harm. Finally, the petition alleged two counts under section 300, subdivision (j), which repeated the physical abuse allegations. Following a hearing, the court found Cervando was Juan's presumed father and released Juan to Cervando and Dorisbeth.

In a jurisdiction/disposition report dated August 16, 2017, the Department stated L.Z. continued to deny any sexual abuse. The Department concluded, "[b]ased on the inconsistent statements made by [L.Z.], the department is uncertain whether the child is telling the truth regarding the sexual abuse allegations that were previously investigated." On November 20, 2017, despite L.Z.'s continued denial of sexual abuse, the Department filed a first amended petition regarding Juan. The

amended petition added allegations pursuant to section 300, subdivisions (b)(1), (d) and (j), that Cervando had sexually abused L.Z., which placed Juan at substantial risk of harm.

3. The Jurisdiction and Disposition Hearing

After a contested jurisdiction/disposition hearing the court dismissed the counts alleged pursuant to section 300, subdivisions (a), (b)(1) and (d). The court also dismissed the two allegations under subdivision (j) pertaining to Dorisbeth's alleged physical abuse of L.Z. and Litzy. As to the allegation pertaining to sexual abuse, the court found, "Based upon my over 30 years of experience doing dependency law . . . and in my training, it is clear to the court that these children have exhibited symptoms consistent with being sexually abused. At least [L.Z.] has." However, the court found the Department had not met its burden to show Cervando was the abuser. Accordingly, the court amended the remaining subdivision (j) allegation by interlineation to read, "On prior occasions, the child's half sibling, [L.Z.], was sexually abused by a member of the child's household, which endangers the child's physical and/or emotional health, safety and well-being and places the child and the child's siblings at risk of harm, damage, danger and further sexual abuse." The court sustained that count as amended as to both Dorisbeth and Cervando, declared Juan a dependent of the court and ordered him released to his parents. The court ordered family maintenance services for Dorisbeth and Cervando, including counseling.

DISCUSSION

Cervando does not challenge the juvenile court's jurisdiction finding as to Dorisbeth. That finding provides an independent basis for affirming dependency jurisdiction over Juan regardless of any alleged error in the finding as to Cervando. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492, [jurisdiction finding involving one parent is good against both; “the minor is a dependent if the actions of either parent bring [him or her] within one of the statutory definitions of a dependent”]; see *In re M.W.* (2015) 238 Cal.App.4th 1444, 1452; *In re Briana V.* (2015) 236 Cal.App.4th 297, 310-311.) As a result, even if we struck the section 300, subdivision (j), finding as to Cervando, the juvenile court would still be authorized to exercise jurisdiction over Juan and to enter all reasonable orders necessary to protect him, including orders binding on Cervando that address conduct not alleged in the petition. (*In re Briana V.*, at p. 311 [“The problem that the juvenile court seeks to address need not be described in the sustained section 300 petition. [Citation.] In fact, there need not be a jurisdictional finding as to the particular parent upon whom the court imposes a dispositional order”]; *In re I.A.*, at p. 1492 [“[a] jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established”]; see generally § 362, subd. (a) [the juvenile court “may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child”].) Thus, any order entered on Cervando's appeal “will have no practical impact on the pending dependency proceeding, thereby precluding a grant of effective relief.” (*In re I.A.*, at p. 1491.)

Recognizing the abstract nature of his appeal, Cervando nonetheless urges us to consider its merits, arguing the finding L.Z. was abused by a member of the household could have an adverse impact in future dependency or family law proceedings. In limited circumstances reviewing courts have exercised their discretion to consider an appeal challenging a jurisdiction finding despite the existence of an independent and unchallenged ground for jurisdiction when the jurisdiction findings “could be prejudicial to the appellant or could impact the current or any future dependency proceedings” or “the finding could have consequences for the appellant beyond jurisdiction.” (*In re J.C.* (2014) 233 Cal.App.4th 1, 4; see *In re D.P.* (2015) 237 Cal.App.4th 911, 917; *In re Drake M.* (2012) 211 Cal.App.4th 754, 763.)

Cervando has failed to identify any specific prejudice or adverse consequence that could possibly flow from the jurisdiction finding he challenges. Any future dependency proceeding would have to be based on conditions existing at that time. A past jurisdiction finding as to Juan that did not identify any wrongful conduct or neglect by Cervando would have limited, if any, relevance and does not create a high risk of prejudice. (See *In re I.A.*, *supra*, 201 Cal.App.4th at p. 1495.) Indeed, the juvenile court refused to sustain the allegation Cervando had sexually abused L.Z., stating “the Department failed to carry its burden under the appropriate standards.” Instead, as it at most inferentially relates to Cervando, the court only sustained an amended allegation that L.Z. had been abused by an unnamed member of the household. That finding does not unduly stigmatize Cervando.

Because Cervando has not established any actual or threatened prejudice from the jurisdiction findings as to him, we

dismiss the appeal on the ground there is no justiciable controversy for which we can grant any effective relief. (*In re Briana V.*, *supra*, 236 Cal.App.4th at pp. 309-310; *In re J.C.*, *supra*, 233 Cal.App.4th at p. 4; *In re I.A.*, *supra*, 201 Cal.App.4th at p. 1492.)

DISPOSITION

The appeal is dismissed.

PERLUSS, P. J.

We concur:

FEUER, J.

STONE, J.*

* Judge of the Los Angeles County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.